

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

RAVI MALLIK,	)	
	)	
	)	
Plaintiff,	)	CIVIL ACTION FILE NO.
	)	
v.	)	_____
	)	
TRUSTGARD INSURANCE COMPANY,	)	
	)	
Defendant.	)	
_____	)	

**NOTICE OF REMOVAL**

TRUSTGARD INSURANCE COMPANY (“Trustgard”), Defendant in the above-styled civil action, hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446 within the time prescribed by law, respectfully showing this Court as follows:

1.

On November 13, 2023, Plaintiff filed a complaint against Trustgard in the State Court of Gwinnett County, Georgia, styled as *Ravi Mallik v. Trustgard Ins. Co.*, and assigned Civil Action File No. 23-C-08418-S4 (“State Court Action”). True and accurate copies of all filings to date in the State Court Action are collectively attached hereto as **Exhibit “A.”**

2.

The complaint and summons in the State Court Action were served upon Trustgard on November 16, 2023. This Notice of Removal is filed within thirty days of November 16, 2023, the date upon which Trustgard received the complaint and notice of the subject lawsuit. This Notice of Removal is also filed within one year of the commencement of the action. Thus, removal is timely under 28 U.S.C. § 1446(b).

3.

The United States District Court for the Northern District of Georgia, Atlanta Division, embraces Gwinnett County, Georgia. Thus, removal to this Court is proper under 28 U.S.C. § 1441(a).

4.

Pursuant to 28 U.S.C. § 1446(d), promptly upon the filing of this Notice of Removal, Trustgard will contemporaneously herewith give written notice to Plaintiff by notifying his attorney of record, Michael B. Weinstein, Esq., of Weinstein & Black, LLC, and will file a copy of this Notice of Removal with the Clerk of State Court of Gwinnett County, which shall effectuate the removal.

**DIVERSITY JURISDICTION AND AMOUNT IN CONTROVERSY**

5.

The United States District Court for the Northern District of Georgia, Atlanta Division, possesses diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

6.

Plaintiff is a resident and domiciliary of the State of Georgia at the time of this removal, and Plaintiff was a resident and domiciliary of the State of Georgia on the date that the complaint was filed in the State Court Action. Further, at all relevant times, Plaintiff has had the intention to remain and live in the State of Georgia as a resident and domiciliary of the same. Thus, Plaintiff is a citizen of the State of Georgia.

7.

Trustgard is a corporation organized under the laws of the State of Ohio, with its principal place of business in the State of Ohio. Thus, Trustgard is not a citizen of the State of Georgia at the time of this removal, and it was not a citizen of the State of Georgia at the time of the commencement of the State Court Action.

8.

Accordingly, because Plaintiff and Defendant are citizens of different States, complete diversity exists between Plaintiff and Defendant in accordance with 28 U.S.C. § 1332(a)(1).

9.

In their complaint, Plaintiffs seek a recovery for insurance proceeds via a breach of contract action (Count I) and bad faith damages pursuant to O.C.G.A. § 33-4-6 (Count II). *See, generally*, [Doc. No. 1-1] (Complaint). In addition, Plaintiff alleges special damages in a total amount exceeding \$75,000.00. [Doc. No. 1-1], at ¶ 22. Plaintiff's request for bad faith damages under O.C.G.A. § 33-4-6 also seeks up to \$37,500.00, plus reasonable attorney's fees and expenses of litigation. *Id.* at ¶ 27. Thus, Plaintiff seeks more than \$112,500.00 in the State Court Action. Accordingly, as per the face of the complaint, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as required by 28 U.S.C. § 1332(a).

10.

In light of the foregoing, this Court has subject matter jurisdiction over this matter in accordance with 28 U.S.C. § 1332(a).

11.

Venue is proper in this Court for purposes of removal under 28 U.S.C. § 1441(a). By filing this Notice of Removal, Trustgard does not waive any of its jurisdictional objections or affirmative defenses.

WHEREFORE, Trustgard respectfully requests that this action proceed in this Court as an action properly removed pursuant to 28 U.S.C. § 1446, and that no further proceedings be had in said case in the State Court of Gwinnett County, Georgia.

Respectfully submitted this 15<sup>th</sup> day of December, 2023.

**SWIFT, CURRIE, McGHEE & HIERS,  
LLP**

/s/ M. Brandon Howard

Stephen M. Schatz

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**LOCAL RULE 5.1C CERTIFICATION**

By signature below, counsel certifies that the foregoing pleading was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1C.

Respectfully submitted this 15<sup>th</sup> day of December, 2023.

**SWIFT, CURRIE, McGHEE & HIERS,  
LLP**

/s/ M. Brandon Howard

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**CERTIFICATE OF SERVICE**

This is to certify that this day I have electronically filed this ***NOTICE OF REMOVAL*** with the Clerk of Court by e-filing same using the CM/ECF System, which will automatically send e-mail notification of said filing to the following attorneys of record:

Michael B. Weinstein, Esq.  
James D. Elliott, Esq.  
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***Attorneys for Plaintiff***

Respectfully submitted this 15<sup>th</sup> day of December, 2023.

**SWIFT, CURRIE, McGHEE & HIERS,  
LLP**

/s/ M. Brandon Howard  
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